THE BOMBAY PROHIBITION ACT, 1949.

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SCHEDULE II.

BOMBAY ACT No. XXV OF 1949.[1]

[THE BOMBAY PROHIBITION ACT, 1949.]

[*20th May 1949.*]

An Act to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition and also the Abkari law in the Province of Bombay.

WHEREAS it is expedient to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition; and whereas it is also necesary to amend and consolidate the Abkari law in the Province of Bombay for the said purpose and to provide for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be cited as the Bombay Prohibition Act, 1949.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, specify.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "authorization" means an authorization granted under section 45 for the use of liquor for sacramental purposes;

(*2*) "to bottle", with its various grammatical variations, means to transfer any article from a cask or other vessel to a bottle, jar, flask, pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not; bottling includes re-bottling;

(*3*) "coasting steamer licence" means a licence granted under section 37;

(*4*) "Collector" means a Collector of land revenue or any person appointed to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act;

(*5*) "Commissioner" means an officer appointed as the Prohibition Commissioner under section 3;

(*6*) "committee" means any of the committees appointed by the Provincial Government under section 7;

(*7*) "common drinking house" means a place where the drinking of liquor or consumption of any intoxicating drug is allowed for the profit or gain of the person owning, occupying, using, keeping or having the care or management or control of such place whether by way of charge for the use of the place or for drinking facilities provided, or otherwise howsoever and includes the premises of a club or any other place which is habitually used for the purpose of drinking liquor or consuming any intoxicating drug by more than one person without a licence granted under this Act;

(*8*) "country liquor" includes all liquor produced or manufactured in India;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 655.

(*9*) " cultivation " includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed ;

(*10*) " denatured " means subjected to a process prescribed for the purpose of rendering unfit for human consumption ;

(*11*) " dining car licence " means a licence granted under section 37 ;

(*12*) " to drink ", with its grammatical variations, means to drink liquor or to consume any intoxicating drug ;

(*13*) " excisable article " means—

(*a*) any alcoholic liquor for human consumption,

(*b*) an intoxicating drug,

(*c*) opium,

(*d*) any medicinal or toilet preparation containing alcohol,

(*e*) other narcotic drugs, narcotics and non-narcotic drugs which the Provincial Government may, by notification in the *Official Gazette*, declare to be an excisable article ;

(*14*) " excise duty " and " countervailing duty " mean such excise duty or countervailing duty, as the case may be, as is mentioned in Item 40 in List II in the Seventh Schedule to the Government of India Act, 1935 ;

(*15*) " excise revenue " means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law) or confiscation or forfeiture imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to intoxicants ; 26 Geo 5, Ch. 2

(*16*) " export " (except in section 147) means to take out of the Province otherwise than across a customs frontier as defined by the Dominion Government ;

(*17*) " foreign liquor " includes all liquor brought into India by sea, air or land : Provided that the Provincial Government may, by notification in the *Official Gazette*, declare that any specified description of country liquor shall, for the purposes of this Act, be deemed to be foreign liquor ;

(*18*) " hemp " means any variety of the Indian hemp plant from which intoxicating drugs can be produced ;

(*19*) " hotel licence " means a licence granted under section 35 ;

(*20*) " import " (except in section 147) means to bring into the Province otherwise than across a customs frontier as defined by the Dominion Government ;

(*21*) " interim permit " means a permit granted under section 47 ;

(*22*) " intoxicant " means any liquor, intoxicating drug, opium or any other substance which the Provincial Government may, by notification in the *Official Gazette*, declare to be an intoxicant ;

(*23*) " intoxicating drug " means—

(*a*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (Cannabis Sativa L.) including all forms known as *bhang, sidhi or ganja ;*

(*b*) charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ;

(*c*) any mixture, with or without neutral materials of any of the above forms of intoxicating drug, or any drink prepared therefrom ; and

(*d*) any other intoxicating or narcotic drug or substance which the Provincial Government may, by notification in the *Official Gazette*, declare to be an intoxicating drug, such drug or substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930 : II of 1930.

Provided that the Provincial Government may, by notification in the *Official Gazette*, declare that any other intoxicating or narcotic substance together with

every preparation and admixture of the same shall be deemed to be an intoxicating drug for the purposes of this Act;

(*24*) " liquor " includes—

(*a*) spirits of wine, methylated spirits, wine, beer, toddy and all liquids consisting of or containing alcohol; and

(*b*) any other intoxicating substance which the Provincial Government may, by notification in the *Official Gazette*, declare to be liquor for the purposes of this Act;

(*25*) " manufacture " includes—

(*a*) every process whether natural or artificial by which any liquor or intoxicating drug is produced, prepared or blended and also redistillation and every process for the rectification of liquor, but does not include flavouring, blending or colouring of liquor or intoxicating drug lawfully possessed for private consumption; and

(*b*) every process of producing and drawing of toddy from trees;

(*26*) " Medical Board " means a board constituted under section 8;

(*27*) " mhowra flower " does not include the berry or seed of the mhowra tree;

(*28*) " molasses " means the heavy, dark coloured residual syrup drained away in the final stage of the manufacture of gur or sugar containing, in solution or suspension, sugars which can be fermented, and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup; but does not include any article which the Provincial Government may, by notification in the *Official Gazette*, declare not to be molasses, for the purposes of this Act;

(*29*) " Officer in charge of a Police Station " includes—

Bom. IV of 1902. (*a*) in the Greater Bombay, the officer in charge of a police section as provided under the provisions of the City of Bombay Police Act, 1902, and

V of 1898. (*b*) elsewhere, the officer in charge of a police station as defined in the Code of Criminal Procedure, 1898;

(*30*) " opium " means—

(*a*) the capsules of the poppy (Papaver Somniforum L.);

(*b*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and

(*c*) any mixture with or without neutral materials of any of the above forms of opium;

but does not include any preparations containing not more than 0·2 per cent. of morphine, or a manufactured drug as defined in section 2 of the Dangerous

II of 1930. Drugs Act, 1930;

(*31*) " passenger ship licence " means a licence granted under section 38;

(*32*) " permit " means a permit granted under section 40, 41, 46 or 47 and the expression " permit holder " shall be construed accordingly;

(*33*) " police station " means in the Greater Bombay a police section as provided

Bom. IV of 1902. under the provisions of the City of Bombay Police Act, 1902, and elsewhere any place declared to be a police station for the purposes of the Code of Criminal Procedure,

V of 1898. 1898;

(*34*) " prescribed " means prescribed by the rules, orders or regulations under this Act;

(*35*) " Prohibition officer " includes the Commissioner, Collector or any officer or person appointed to exercise any of the powers or to perform any of the duties and functions under the provisions of this Act and also includes any member of a committee or the Medical Board;

(*36*) "Province" means the Province of Bombay including the space within the limits of its territorial waters;

(*37*) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith;

(*38*) "Registered Medical Officer" means—

(*a*) a medical practitioner registered under the Bombay Medical Act, 1912, or Bom. VI of 1912.

(*b*) a medical practitioner registered or entered on the list under the Bombay Medical Practitioners' Act, 1938; Bom. XXVI of 1938.

(*39*) "regulations" means regulations made under this Act;

(*40*) "rules" means rules made under this Act;

(*41*) "sell" with its grammatical variations includes—

(*a*) any transfer whether such transfer is for any consideration or not,

(*b*) any supply or distribution for mutual accommodation, and

(*c*) any supply by a club to its members on payment of price or of any fees or subscription; but does not include selling of opium for export across the customs frontier as defined by the Dominion Government;

The word "buy" with its grammatical variations shall be construed accordingly;

(*42*) "special import licence" means a licence granted under section 36;

(*43*) "spirit" means any liquor containing alcohol and obtained by distillation (whether it is denatured or not);

(*44*) "sweet toddy or nira or neera" means unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree into receptacles treated in the prescribed manner so as to prevent fermentation;

(*45*) "territorial waters" with reference to the Province means any part of the open sea within one marine league of the coast measured from the low water mark;

(*46*) "toddy" means fermented or unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree and includes sweet toddy or nira or neera;

(*47*) "to tap" means to prepare any part of a tree, or to use any means, for the purpose of causing juice to exude from the tree;

(*48*) "trade and import licence" means a licence granted under section 33;

(*49*) "transport" means to move from one place to another within the Province;

(*50*) "vendor's licence" means a licence granted under section 34;

(*51*) "visitor's permit" means a permit granted under section 46.

CHAPTER II.

ESTABLISHMENT.

Prohibition Commissioner

3. The Provincial Government may, by notification in the *Official Gazette*, appoint an officer to be called the Prohibition Commissioner, who, subject to the control of the Provincial Government and subject to such general or special orders as the Provincial Government may from time to time make, shall exercise such powers and shall perform such duties and such functions as are conferred upon, by or under the provisions of this Act and shall superintend the administration and carry out generally the provisions of this Act:

Provided that the person appointed as and holding office of the Commissioner of Excise for the Province of Bombay immediately before the date on which this Act comes into force shall be the Prohibition Commissioner and shall hold the office of the Prohibition Commissioner until the Provincial Government directs otherwise.

Bom. V of 1879.

4. (*1*) The Collectors shall, within the limits of their jurisdiction for which they are appointed as Collectors under the Bombay Land Revenue Code, 1879, exercise such powers and perform such duties and functions as are provided by or under the provisions of this Act. Collectors.

(*2*) For the purposes of this Act all Collectors including the Collector of Bombay shall be subordinate to the Commissioner.

(*3*) The Provincial Government may, by notification in the *Official Gazette*, appoint any person other than the Collector of land revenue to exercise in any district or place all the powers and perform all the duties and functions as are assigned by or under this Act to a Collector subject to such control, if any, in addition to that of the Commissioner and of the Provincial Government, as the Provincial Government may from time to time direct.

5. To aid the Commissioner and the Collectors in carrying out the provisions of this Act, the Provincial Government may appoint such subordinate officers, with such designations and assign to them such powers, duties and functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary. Subordinate officers.

6. (*1*) The Provincial Government may invest any officer of the Police department or any officer of any other department either personally or in right of his office with such powers, impose upon him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary and any such officer shall, thereupon, exercise the said powers, discharge the said duties and perform the said functions in addition to the powers, duties and functions incidental to his principal office. Investing officers of other departments with powers and duties under this Act.

(*2*) The Provincial Government may also invest any person working in an honorary capacity or otherwise with such powers, impose on him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary. Such persons may be given such designations as the Provincial Government may deem fit.

7. (*1*) The Provincial Government may appoint committees to advise and assist officers in carrying out the provisions of this Act. Committees.

(*2*) Such committees shall perform such functions as are provided by or under the provisions of this Act.

(*3*) The constitution of such committees and the procedure regarding their work shall be as may be prescribed.

(*4*) The Provincial Government may direct that the members of such committees shall be paid such fees and allowances as may be prescribed.

8. (*1*) The Provincial Government may constitute one or more medical boards for such areas and consisting of such members as it may deem fit. Medical boards.

(*2*) A medical board so constituted shall perform such functions as are provided by or under this Act.

(*3*) The procedure regarding the work of the medical board shall be as may be prescribed.

(*4*) The members of the medical board shall be entitled to such fees and allowances as may be prescribed.

9. In exercise of their powers and in discharge of their duties and functions under the provisions of this Act or rules, regulations or orders made thereunder, all Prohibition Officers and all officers including the officers of the Police and other departments shall, subject to the general or special orders of the Provincial Government be subordinate to and under the control of the Commissioner and Control of Commissioner over Prohibition Officers and other officers,

shall be bound to follow such orders as the Commissioner may, from time to time, make.

Delegation.

10. (*1*) The Provincial Government may delegate any of the powers exercisable by it under this Act to the Commissioners or such other officer as it deems fit.

(*2*) Subject to the control and direction of the Provincial Government the powers conferred on the Commissioner or any other officer appointed or invested with powers under, this Act may be delegated by him to any of his subordinates.

CHAPTER III.

PROHIBITIONS.

Manufacture etc. of intoxicant to be permitted in accordance with provisions of Act, rules, etc.

11. Notwithstanding anything contained in the following provisions of this Chapter, it shall be lawful to import, export, transport, manufacture, sell, buy, possess, use or consume any intoxicant or hemp or to tap any toddy producing tree or permit such tree to be tapped or to draw toddy from such tree or permit toddy to be drawn therefrom in the manner and to the extent provided by the provisions of this Act, any rules, regulations or orders made or in accordance with the terms and conditions of a licence, permit, pass or authorization granted thereunder.

Prohibition of manufacture of liquor and construction and working of distillery or brewery.

12. No person shall—

(*a*) manufacture iquor ;
(*b*) construct o rwork any distillery or brewery ;
(*c*) import, export, transport or possess liquor ; or
(*d*) sell or buy liquor.

Prohibition of sale, etc. of liquor.

13. No person shall—

(*a*) bottle any liquor for sale ;
(*b*) consume or use liquor ; or
(*c*) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any liquor.

Prohibition of export import, transport, sale, manufacture, etc., of intoxicating drugs.

14. No person shall—

(*a*) export, import, transport, or possess any intoxicating drug ;
(*b*) cultivate or collect the hemp or extract any portion of such plant from which any intoxicating drug can be manufactured ;
(*c*) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any intoxicating drug ;
(*d*) sell or buy any intoxicating drug ;
(*e*) consume or use any intoxicating drug ; or
(*f*) manufacture any intoxicating drug.

Prohibition of import, export, transport, sale, etc., of sweet toddy.

15. No person shall—

(*a*) import, export, transport, or possess sweet toddy or nira ;
(*b*) bottle sweet toddy or nira for sale ; or
(*c*) sell or buy sweet toddy or nira.

Prohibition of tapping of toddy producing trees and drawing of toddy.

16. No person shall—

(*a*) tap any toddy producing tree or permit to be tapped any toddy producing tree belonging to him or in his possession ; or

(*b*) draw toddy from any tree or permit toddy to be drawn from any tree belonging to him or in his possession.

Prohibition of possession, etc. of opium.

17. No person shall—

(*a*) possess opium ;

(*b*) transport opium ;

(*c*) import or export opium ;

(*d*) sell or buy opium ; or

(*e*) consume or use opium.

Prohibition of sale to children.

18. No licensed vendor and no person in the employ of such licensed vendor or acting with the express or implied permission of such licensed vendor on his behalf shall sell or deliver any intoxicant to any person apparently under the age of twenty-one years, whether for consumption by such person or by other person and whether for consumption on or off the premises of such licensed vendor.

Prohibition of sale of toddy.

19. No owner of any toddy producing tree, and no person having a right to the juice of such tree, and no drawer of toddy, shall sell toddy and no person transporting or removing toddy under a pass granted under this Act shall sell the same except—

(*a*) under a licence granted under this Act, or

(*b*) to a person licensed to manufacture or sell liquor under this Act.

Prohibition of production, etc., of charas.

20. No person shall—

(*a*) produce,
(*b*) manufacture,
(*c*) possess,
(*d*) export,
(*e*) import,
(*f*) transport,
(*g*) buy,
(*h*) sell,
(*i*) consume, or
(*j*) use

charas.

Alteration of denatured spirit.

21. No person shall—

(*a*) alter or attempt to alter any denatured spirit by dilution with water or by any method whatsoever, with the intention that such spirit may be used for human consumption, whether as a beverage or internally as a medicine or in any other way whatsoever, or

(*b*) have in his possession any denatured spirit in respect of which he knows or has reason to believe that such alteration or attempt has been made.

Prohibition of allowing any premises to be used as common drinking house.

22. No person shall—

(*a*) open or keep or use any place as a common drinking house ; or

(*b*) have the care, management or control of, or in any manner assist in conducting the business of, any place opened, or kept or used as a common drinking house.

Prohibition of commending or soliciting use of intoxicant or hemp or inciting any individual of public to do any act.

23. No person shall—

(*a*) commend, solicit the use of, offer any intoxicant or hemp, or

(*b*) incite or encourage any member of the public or any class of individuals or the public generally to commit any act which frustrates or defeats the provisions of this Act, or any rule, regulation or order made thereunder, or

(*c*) do any act which is calculated to incite or encourage any member of the public or a class of individuals or the public generally to commit any offence under this Act or to commit a breach of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

Prohibition of publication of advertisements relating to intoxicant, etc.

24. (*1*) No person shall print or publish in any newspaper, news-sheet, book, leaflet, booklet or any other single or periodical publication or otherwise display or distribute any advertisement or other matter,—

(*a*) which commends, solicits the use of or offers any intoxicant or hemp

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

(*2*) Save as otherwise provided in sub-section (*3*), nothing in this section shall apply to :

(*a*) catalogues or price lists which may be generally or specially approved by the Commissioner in this behalf;

(*b*) any advertisement or other matter contained in any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the Province;

(*c*) any advertisement or other matter contained in any newspaper printed and published in the Province before such date as the Provincial Government may, by notification in the *Official Gazette*, specify; and

(*d*) any other advertisement or matter which the Provincial Government may, by notification in the *Official Gazette*, generally or specially exempt from the operation of this section.

(*3*) Notwithstanding anything contained in sub-section (*2*), the Provincial Government may, by notification in the *Official Gazette*, prohibit within the Province the circulation, distribution or sale of any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the Province which contains any advertisement or matter,—

(*a*) which commends, solicits the use of or offers any intoxicant or hemp, or

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any offence under this Act or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder, or the conditions of any licence, permit, pass or authorization granted thereunder.

CHAPTER IV.

CONTROL, REGULATION AND EXEMPTIONS

Exemption of preparations.

25. The Provincial Government may, by notification in the *Official Gazette*, direct that any preparation containing alcohol not exceeding a specified percentage by volume shall be exempt from any of the provisions of this Act or rules, regulations or orders made thereunder.

Distilleries and warehouses for intoxicants

26. The Commissioner may—

(*a*) establish a distillery in which spirit may be manufactured in accordance with a licence issued under this Act on such conditions as the Provincial Government deems fit to impose;

(*b*) discontinue any distillery established;

(*c*) licence, on such conditions as the Provincial Government deems fit to impose, the construction and working of a distillery or brewery;

(*d*) establish or licence a warehouse wherein any liquor, intoxicating drug, hemp, mhowra flowers or molasses may be deposited and kept without payment of duty ; and

(*e*) discontinue any warehouse so established.

Intoxicating drug or hemp not to be removed from warehouse, etc.

27. No liquor, intoxicating drug, hemp, mhowra flowers or molasses shall be removed from any distillery, warehouse or other place of storage established or licensed under this Act, except under a pass and unless the duty, if any imposed under the provisions of this Act, has been paid or a bond has been executed for the payment thereof.

Passes for import, etc.

28. (*1*) The Provincial Government may, by general or special order, authorize a Collector or any other officer to grant passes for the import, export or transport of any liquor, intoxicating drug or hemp.

(*2*) Such passes may be either general for definite periods of time and definite kinds of liquor, intoxicating drug or hemp or special for specified occasions and particular consignments only.

(*3*) Every such pass shall specify—

(*a*) the name of the person authorized to import, export or transport liquor, intoxicationg drug or hemp ;

(*b*) the period for which the pass is to be in force ;

(*c*) the quantity and description of liquor, intoxicating drug or hemp for which it is granted ; and

(*d*) the places from and to which liquor, intoxicating drug or hemp are to be imported, exported or transported and in the case of places more than ten miles apart, the route by which they are to be conveyed.

Passes for through consignments.

29. The through transport of any consignment of any intoxicant, hemp, mhowra flowers or molasses by a railway administration or by any steamer, ferry, road transport or air service shall be under such passes and subject to such conditions as may be prescribed.

Licence for possession of denatured or rectified spirit and alcohol for industrial or medical purposes.

30. The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences for the possession of denatured spirit, rectified spirit and alcohol for industrial or medical purposes, if such spirit or alcohol is, in the opinion of the officer granting the licence, necessary for the scientific, industrial, medical or similar purpose :

Provided that no licence shall be necessary for the possession of denatured spirit to the extent of such quantity as may be prescribed.

Licences for *bona fide* medicinal or other purposes.

31. The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences to any person or in respect of any institution whether under the management of Government or not for the manufacture, export, import, transport, sale or possession of liquor, an intoxicating drug or hemp or any article containing liquor, intoxicating drug or hemp on the ground that such article is required by such person or in respect of such institution for a *bona fide* medicinal scientific, industrial or such like purpose :

Provided that when any liquor, intoxicating drug, sweet toddy or article containing such liquor, drug or hemp has been obtained by any person for a *bona fide* medicinal scientific or industrial or like purpose from any person or institution licensed to sell the same under this section, it shall not be necessary for such person to obtain a licence for the possession of the same.

Licences for tapping for toddy.

32. The Provincial Government may authorize an officer by rules or an order in writing to grant licences for the tapping of palmyra or date palm trees for juice intended to be used for the manufacture of gur or any other article which is not an intoxicant.

Trade and import licences.

33. The Provincial Government may, by rules or an order in writing, authorize an officer to grant trade and import licences to persons intending to import and to sell by wholesale any liquor, intoxicating drug or hemp.

Vendor's licence.

34. (*1*) The Provincial Government may, by rules or an order in writing, authorize an officer to grant a vendor's licence.

(*2*) A vendor's licence shall be granted on the following conditions :—

(*i*) the stock of foreign liquor with the licensee (except what is permitted for disposal in the shop) shall be kept by him at a warehouse approved by Government ;

(*ii*) the licensee shall be allowed to select his own warehouse, and fix its rent with the owner :

Provided that on his failure to select such a warehouse, the warehouse shall be selected by the Provincial Government ;

(*iii*) the licensee shall pay all rent, costs, charges and expenses incidental to warehousing and supervision ;

(*iv*) the licensee may sell part of the stock to foreign liquor licensees in the Province or to any persons outside the Province, subject to such conditions as the Commissioner may prescribe ;

(*v*) the licensee shall be permitted to sell only to holders of permits or authorizations and chemists, messes and clubs holding licences ;

(*vi*) the licensee shall be entitled to keep in his shop such quantity of liquor as may be required by him from time to time for retail sale ;

(*vii*) the licensee shall keep accounts and shall dispose of the goods according to such instructions as may be given by the Commissioner or any officer authorized in this behalf by the Commissioner.

Hotel licences.

35. (*1*) The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences to the managers of hotels to sell foreign liquor to the holders of permits granted under this Act :

Provided that the Provincial Government is satisfied that such hotel has ordinarily a sufficient number of boarders eligible to hold permits.

(*2*) Such licences shall be issued on the following conditions :—

(*i*) liquor shall be sold in sealed bottles to the permit holders residing at the hotel,

(*ii*) consumption of liquor sold shall not be allowed in any of the rooms of the hotel to which any member of the public has access,

(*iii*) the holders of hotel licences shall pay the expenses of any officer of the excise establishment, if any, required for the grant and control of permits on the premises.

Special import licences to hotels.

36. The Provincial Government may, by rules or an order in writing, authorize an officer to grant special import licences to managers of hotels for the purpose of importing foreign liquor for use in the hotel.

Dining cars and coasting steamers licences.

37. The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences to sell foreign liquor to the managers of dining cars on railways and Captains of coasting steamers on such conditions as may be prescribed

Licences to shipping companies.

38. The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences to any shipping company for each ship to sell foreign liquor on condition that such liquor shall be sold only to *bona fide* passengers on such ship.

Permission to use or consume foreign liquor, on cargo boats warships, troopships and in military and naval messes and canteens.

39. The Provincial Government may, on such conditions as may be specified in the notification published in the *Official Gazette*, permit the use or consumption of foreign liquor on cargo boats, warships and troopships and in military and naval messes and canteens.

Permits.

40. (*1*) The Provincial Government may, by rules or an order in writing, authorize an officer to grant permits for the use or consumption of foreign liquor to persons on the following conditions :—

(*a*) that such person is not a minor ;

(*b*) that the health of such person shall be seriously and permanently affected if such person is not permitted to use or consume such liquor ; or

(*c*) (*i*) that such person was either born and brought up or domiciled in any country outside India where such liquor is being generally used or consumed ; or

XVI of 1939. (*ii*) that such person is on the Register of Foreigners under the Registration of Foreigners Act, 1939, and is not domiciled in the Dominion of India :

Provided that, in the case of any person falling under sub-clause (*i*) or (*ii*)—

(*a1*) such person has been residing and intends to reside in India temporarily and that such person has a fixed and settled purpose of making his sole and permanent home in any country outside India ; and

(*b1*) that such person has been ordinarily using or consuming such liquor.

(*2*) Such permits may be granted by the Commissioner or the officer authorized or the committee appointed for the purpose.

(*3*) Such permits shall be granted for such quantities as may be prescribed.

Explanation.—For the purpose of clause (*c*) of sub-section (*1*), a person shall be deemed to be residing or intending to reside in India temporarily, if the period of his residence does not exceed six months.

Special permits to foreign sovereigns, etc.

41. The Provincial Government may grant special permits for the use or consumption of foreign liquor to sovereigns of foreign states or an ambassador or a diplomatic envoy or consul of a foreign state or the consort or any member of the staff entitled to diplomatic privileges, of such sovereign, ambassador, envoy or consul.

Permits to be non-transferable.

42. Permits granted under section 40 or 41 shall be non-transferable.

Permit holder not to allow use or consumption by non-permit holder.

43. No holder of a permit granted under section 40 or 41 shall allow the use or consumption of any part of the stock held by him under the permit to any person who is not the holder of such a permit. No holder of a permit shall drink in a public place, or in the rooms of a hotel or institution to which the public may have access.

Licence clubs.

44. (*1*) The Provincial Government may, by rules or an order in writing, authorize or grant licences to a club approved by the Provincial Government in this behalf to sell foreign liquor.

(*2*) Such licences shall be granted on the following conditions :—

(*a*) that the number of the resident members of the club does not exceed the maximum number of resident membership of such club during the three years immediately before the commencement of this Act :

Provided that the Commissioner in Greater Bombay and the Collector elsewhere may, subject to the general or special orders of the Provincial Government, permit such maximum number of resident members to be exceeded in the case of any particular club ;

(*b*) that no liquor shall be served to the holder of any permit in any room of the club to which the public have access at the time when any person who does not hold such permit is present ;

(*c*) that the club when authorized by any member who is the holder of a permit may stock the permitted quantity of liquor on account of such member ; and

(*d*) that liquor stocked on behalf of a member who is the holder of a permit may be served to any person who is the holder of a permit.

Explanation.—For the purposes of this section a resident member of a club shall mean a member who ordinarily resides in the case of a club situated in Greater Bombay within the limits of the said area and elsewhere within the limits of a local authority in which the club is situated.

Authorization for sacramental purposes.

45. (*1*) The Provincial Government may, by rules or an order in writing, authorize an officer to grant any authorization to any person for the use of liquor for sacramental purposes :

Provided that the officer so authorized is satisfied that the use of such liquor is required in accordance with the religious tenets of the community to which such person belongs.

(*2*) An authorization under this section shall be granted on the recommendation of the person who consistently with the religious tenets of the community to which the persons applying for the authorization belongs exercises control over sacramental matters relating to such community and has been approved by the Provincial Government in that behalf.

(*3*) If in any community there is no person who exercises control over sacramenta matters relating to such community and if in the opinion of the Provincial Government it is so desirable, the authorization under this section may be granted on the recommendation of such member of the community as may be approved by the Provincial Government in this behalf.

(*4*) If any dispute arises whether the use of liquor is required by any person for sacramental purpose, the person requiring such use may apply to the Commissioner. The Commissioner after holding a summary inquiry in the prescribed manner shall decide whether or not the liquor is required by the person for sacramental purposes.

(*5*) The decision of the Commissioner under sub-section (*4*) shall be final.

Visitors' permits.

46. (*1*) The Provincial Government may, by rules or an order in writing authorize an officer to grant visitors' permits to consume, use and buy foreign liquor to persons who visit the Province for a peroid not more than a week.

(*2*) Such permits shall not be granted for a period exceeding one week, provided that the officer granting the permit may extend the period of such permit for the total period not exceeding one month.

(*3*) Such permit shall be available at such places as may be notified by the Commissioner in this behalf.

Interim permits.

47. (*1*) Notwithstanding anything contained in sections 40 and 41, the Provincial Government may, by rules or an order in writing, grant interim permits to persons applying for permits under any of the said provisions.

(*2*) Such interim permits shall not be granted for any period exceeding two months.

Licence for use of hemp drugs.

48. (*1*) The Provincial Government may by rules or an order in writing authorize an officer to grant licences for the sale of hemp drugs in such quantities as may be prescribed.

(*2*) Such licences shall be granted on the certificate of the Medical Board.

Power to make rules or pass orders for possession, etc., of opium.

49. The Provincial Government may from time to time make rules or pass orders to permit absolutely or subject to any conditions or the payment of duty and to regulate within the whole of the Province or any local area all or any of the following matters :—

(*a*) the possession of opium,

(*b*) the use or consumption of opium,

(*c*) the transport of opium,

(*d*) the import or export of opium,

(*e*) the sale or buying of opium,

(*f*) the safe custody of opium warehoused, the levying of fees for warehousing opium and the removal of warehoused opium for sale.

Warehousing of opium.

50. (*1*) The Provincial Government or any officer authorized in this behalf may declare any place to be a warehouse for opium intended to be sold or exported therefrom. So long as the declaration remains in force, the owner of such article shall be bound to deposit it in that warehouse.

(*2*) No opium shall be removed from any warehouse declared under sub-section (*1*), except under a pass and unless the duty, if any, imposed under the provisions of this Act has been paid or a bond has been executed for the payment thereof.

Rules for sale, etc., of warehoused intoxicant or hemp.

51. The Provincial Government may, by rules made in this behalf, regulate the sale, custody or removal of warehoused intoxicants or hemp.

Power of authorized officer to grant licences, permits and passes in certain cases.

52. Notwithstanding anything in this Act, it shall be lawful for any officer authorized by the Provincial Government in this behalf to grant any licences, passes or permits for the import, export, transport, possession, sale, buying, cultivation, collection, manufacture, consumption and use of any intoxicant, hemp or mhowra flowers or molasses or for the tapping of any toddy producing tree or the drawing of toddy from such tree in cases other than those specifically provided under any of the provisions of this Act.

General conditions regarding licences, etc.

53. All licences, permits passes, or authorizations granted under this Act shall be in such form and shall, in addition to or in variation or substitution of any of the conditions provided by this Act, be subject to such conditions as may be prescribed and shall be granted on payment of the prescribed fee ;

Provided that every licence, permit, pass or authorization shall be granted only on the condition that the holder thereof undertakes, and in the opinion of the officer authorized to grant the licence, permit, pass or authorization is likely to abide by

all the conditions of the licence, permit, pass or authorization and the provisions of this Act and not to do anything which would have the effect of directly or indirectly defeating or frustrating the object and purposes of this Act.

Power to cancel or suspend licences and permits.

54. (*1*) The Commissioner or any officer authorized in this behalf may cancel or suspend any licence, permit, pass or authorization granted under this Act,

(*a*) if any fee or duty payable by the holder thereof is not duly paid ;

(*b*) if the purpose for which the licence, permit, pass or authorisation was granted ceases to exist :

(*c*) in the event of any breach by the holder of such licence, permit, pass or authorization or by his servant or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence, permit, pass or authorization or of any licence, permit, pass or authorization previously held by the holder ;

(*d*) if the holder thereof or any person in the employ of such holder or any person acting with his express or implied permission on his behalf is convicted of any offence under this Act or if the holder of the licence, permit, pass or authorization is convicted of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930 or under the Indian Merchandise Marks Act, 1889, or of any offence punishable under sections 482 to 489 (both inclusive) of the Indian Penal Code, or of any offence punishable under Article 8 of the Schedule to section 167 of the Sea Customs Act, 1878. II of 1930. IV of 1889. XLV of 1860. VIII of 1878.

(*2*) Where a licence, permit, pass or authorization held by any person is cancelled under sub-section (*1*), the authority aforesaid may cancel any other licence, permit, pass or authorization granted or deemed to have been granted to such person under this Act.

(*3*) Notwithstanding anything contained in the foregoing sub-sections, the Provincial Government may cancel or suspend any licence, permit, pass or authorization without assigning any reason.

Holder of licences, etc., not entitled to compensation or refund of fee for cancellation or suspension thereof.

55. No holder of a licence, permit, pass or authorization shall be entitled to any compensation for the cancellation or suspension of the licence, permit, pass or authorization under section 54 nor to a refund of any fee or deposit made in respect thereof.

Cancellation for other reasons.

56. (*1*) Whenever the authority granting a licence considers that it should be cancelled for any cause other than those specified in section 54, he may cancel the licence either—

(*a*) on the expiration of not less than fifteen days' notice in writing of his intention to do so ; or

(*b*) forthwith without notice after recording his reasons in writing for doing so.

(*2*) When a licence is cancelled under clause (*a*) of sub-section (*1*), any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, less the amount, if any, due to the Provincial Government. When a licence is cancelled under clause (*b*) of sub-section (*1*), the licensee shall not be entitled to the refund of any fee paid in advance or deposit made by the licensee in respect of the licence.

Attachment of licence.

57. Notwithstanding anything contained in any other section, when a licence is liable under that section to cancellation owing to default in the payment of any duty or fee payable by the holder thereof, the authority granting the licence may attach and take such licence under management, and if the profits received from such management after meeting all the expenses of such attachment and management are less than the amount of the arrears for which the licence was attached and the amount falling due on such licence during the remaining period of such licence, the difference shall be recovered from the licensee as if it were a duty or fee leviable under any one of the provisions of this Act, and in the event of the said profits exceeding the amount so due under the licence, the licensee shall not be entitled to receive any of the said profits.

Right, title or interest under licence not liable to be sold or attached in execution.

58. Notwithstanding anything contained in any law for the time being in force, no right, title or interest in any licence, permit, pass or authorization granted under this Act shall be liable to be sold, transferred or attached in execution of any process of any civil or any other court.

Commissioner entitled to require licence holder to dispose of stocks.

59. (*1*) Notwithstanding the fact that the period during which any licence, permit, pass or authorization is to be in force has not expired, the Commissioner may direct the holder thereof to dispose of his stock of intoxicant or hemp or mhowra flowers before such date as may be specified in the order.

(*2* Any stock of intoxicant, hemp or mhowra flowers left undisposed of after the date so specified shall, together with receptacles or packages in which it is contained, be liable to forfeiture to His Majesty by the order of the Commissioner. On the cancellation or the expiry of the period of any licence, permit, pass or authorization, the Commissioner may also direct that any stock of any intoxicant, hemp or mhowra flowers remaining with the holder of the licence, permit, pass or authorization together with receptacles or packages thereof be forfeited to His Majesty.

(*3*) If the articles which are forfeited under sub-section (*2*) are sold, the Commissioner may, if he thinks fit, order the whole or any portion of the sale proceeds of such articles to be paid to the owner thereof.

CHAPTER V.

MHOWRA FLOWERS.

Prohibition of export or import of mhowra flowers.

60. (*1*) No person shall export or import mhowra flowers except under a pass granted by the Collector or an officer authorized in this behalf.

Control and regulation of transport, sale, etc., of mhowra flowers.

(*2*) No person shall collect or transport or sell or buy or have in this possession mhowra flowers exceeding the prescribed limit in weight, except under the authority and subject to the conditions of a licence, permit or pass granted in this behalf:

Provided that no licence, permit or pass shall be necessary for the collection, transport, sale, purchase or possession within such area and during such period (hereinafter called vacation period) as the Provincial Government may, be notification in the *Official Gazette*, notify, of any quantity of mhowra flowers which shall be the produce of that year:

Provided further that unless the Provincial Government, by a notification in the *Official Gazette*, otherwise directs, no licence, permit or pass shall be necessary for the transport by rail of any quantity of mhowra flowers through an area which has

no vacation period or the vacation period for which has expired at the time when the transport takes place, provided that—

(*i*) the said flowers are not unloaded in transit, and

(*ii*) there is a vacation period at the place from which and to which the said flowers are transported at the time when the said flowers are despatched or arrive, as the case may be.

CHAPTER VI.

CONTROL AND REGULATION OF MOLASSES.

Control of export, etc., of molasses.

61. (*1*) Except as otherwise provided in sub-sections (*2*) and (*3*), no person shall export, import, transport, sell or have in his possession any quantity of molasses.

(*2*) The Provincial Government may, by general or special order, authorize any Collector to grant licences for the import, export, sale or possession of molasses.

(*3*) The Provincial Government may also authorize any Collector or any other officer to grant permits for the transprt of molasses.

Provisions of sections 53 to 59 to apply to licences granted under section 61.

62. The provisions of sections 53 to 59 shall, so far as may be applicable, apply to licences or permits granted under section 61.

Control of price of molasses.

63. The Provincial Government may, by notification in the *Official Gazette*, fix for any area the price exceeding which molasses shall not be sold. Such price shall be in accordance with the grades of different qualities of molasses. The decisoin of the Provincial Government regarding the gradation and the amount of the maximum price shall be final.

Power of Provincial Government to direct holder of stock of molasses to sell them at fixed price to any officer, person or class of persons.

64. (*1*) The Provincial Government may direct any holder of any stocks of molasses to sell them at the price fixed under section 63 to any officer authorized in this behalf or to any person or a class of persons.

(*2*) If the holder refuses to comply with the direction made under sub-section (*1*) the officer authorized may take possession of the quantity of molasses directed to be sold and may pay or cause to be paid to the holder or deposit or cause to be deposited with the Collector the amount or the price thereof.

(*3*) The holder who refuses to comply with the direction made under sub-section (*1*) shall also, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

CHAPTER VII.

OFFENCES AND PENALTIES.

Penalty for illegal import, etc., of intoxicant or hemp.

65. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or of any licence, pass, permit or authorization granted, thereunder—

(*a*) imports or exports any intoxicant or hemp,

(*b*) manufactures any intoxicant,

(*c*) constructs or works any distillery or brewery,

(*d*) bottles liquor,

(*e*) sells or buys any intoxicant or hemp, or

(*f*) uses, keeps or has in his possession any materials, still, utensils, implements or apparatus for the purpose of manufacturing any intoxicant (other than toddy),

shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, uch imprisonment shall not be less than nine months and fine shall not be lesss than one thousand rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

Penalty for illegal cultivation and collection of hemp and other matters

66. Whoever in contravention of the provisions of this Act, or of any rule, regulation or order made, or of any licence, permit, pass or authorization issued, thereunder—

(*a*) cultivates or collects hemp,

(*b*) consumes, uses, possesses or transports any intoxicant or hemp,

(*c*) taps or permits to be tapped any toddy producing tree,

(*d*) draws or permits to be drawn toddy from any tree, shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees ;

(*iii*) for a third or subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees.

Penalty for alteration or attempting to alter denatured spirit.

67. Whoever in contravention of section 21 alters or attempts to alter any denatured spirit or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

Penalty for opening, etc., of common drinking house.

68. Whoever—

(*a*) opens, keeps or uses any place as a common drinking house ; or

(*b*) has the care, management or control of, or in any manner assists in conducting the business of any place opened, kept or used as a common drinking house,—shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

Penalty for illegal import, etc., of mhowra flowers.

69. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or licence, permit or pass granted thereunder, imports, exports, transports, sells or has in his possession mhowra flowers shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees :

Provided further that no person shall be punished in respect of any mhowra flowers which are either growing on a tree or are lying uncollected on the ground as they have fallen from a tree.

Penalty for illegal import, etc., of molasses.

70. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or of any licence or permit granted thereunder, exports, imports, transports, sells or has in his possession molasses shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for selling molasses at price exceeding fixed price.

71. Whoever sells molasses at a price exceeding that fixed under section 63 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees.

Penalty for failure, etc., of warehousing opium.

72. Whoever in contravention of the provisions of this Act or any rule, regulation or order made thereunder, omits to warehouse opium or removes or does any act in respect of the warehoused opium, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for printing or publishing advertisements in contravention of provisions of Act, etc.

73. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made thereunder, prints or publishes in any newspaper, news-sheets, book, leaflet, booklet or any single or periodical publication or otherwise displays or distributes any advertisement or other matter—

(*a*) which commends, solicits the use of or offers any intoxicant or hemp, or

) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of, or to evade the provisions of, any rule, regulation or order made thereunder or of the conditions of a licence, permit, pass or authorization granted thereunder—

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty for circulating, etc., newspapers, etc., containing advertisements regarding intoxicants, etc.

74. Whoever, in contravention of a notification issued under sub-section (*3*) of section 24, circulates, distributes or sells any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the Province which contains any advertisement or matter,—

(*a*) which comends, solicits the use of or offers any intoxicant or hemp,

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder, or the conditions of any licence, permit, pass or authorization granted thereunder,—

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for inciting or encouraging certain acts frustrating provisions of this Act.

75. Whoever, in contravention of the provisions of this Act or any rule, regulation or order made thereunder,—

(*a*) commends, solicits the use of or offers any intoxicant or hemp, or

(*b*) incites or encourages any individual or a class of individuals or the public generally to commit any act which frustrates or defeats the provisions of this Act, rule or regulation or order, or

(*c*) does any act which is calculated to incite or encourage any individual, or a class of individuals or the public generally to commit an offence under this Act or to commit a breach of any rule, regulation or order made or of conditions of a licence, permit, pass or authorization granted thereunder,

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for neglect to keep measures, etc.

76. Whoever in contravention of the provisions of this Act, rule or regulation or order or the condition of any licence, permit or pass granted under this Act,—

(*a*) neglects to supply himself with measures and weights for measuring and weighing any intoxicant or hemp, or with instruments for testing the strength of liquor or keep the same in good condition, or

(*b*) refuses to measure, weigh, or test any intoxicant or hemp in his possession,

shall, on conviction, be punished for each such offence with fine which may extend to two hundred rupees.

Penalty for misconduct by licensee, etc.

77. Whoever, being the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(*a*) fails to produce licence, permit, pass or authorization on demand by a Prohibition Officer or any other officer duly empowered if such licence, permit, pass or authorization is in his possession or control, or

(*b*) wilfully does or omits to do anything in contravention of any rule, regulation or order made under this Act, or

(*c*) wilfully does or omits to do anything in breach of any of the conditions of such licence, permit, pass or authorization, not otherwise provided for in this Act,

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees or with both.

Penalty for misconduct by licensed vendor or manufacturer.

78. Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(*a*) mixes or permits to be mixed with the said intoxicant any noxious drug or any foreign ingredient likely to add to the actual or apparent intoxicating quality or strength or any article prohibited by any rule made under this Act or water except for the purpose of reducing liquor to the strength prescribed in the licence, or any diluting or colouring substance or any ingredient whatsoever likely to render the intoxicant inferior in quality whether such ingredient is or is not prohibited as aforesaid, when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code, or XLV of 1860.

(*b*) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor, or

(*c*) marks the cork of any bottle, or any bottle, case, package or other receptacle, containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other

receptacle contains foreign liquor, when such act shall not amount to an offence of using a false trade mark with intent to deceive or injure any person under section 482 of the Indian Penal Code, or

XLV of 1860.

(*d*) sells or exposes for sale, any country liquor in a bottle, case or package or other receptacle, with any mark thereon, or on the cork thereof with the intention of causing it to be believed, that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the Indian Penal Code, or

XLV of 1860.

(*e*) sells any intoxicant which is not of the nature, substance and quality demanded by the purchaser or keeps or exposes for sale any intoxicant which is not of the nature, substance and quality authorized by the terms of the licence to be kept for sale by the holder of the licence,

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees.

Liability of licensee for acts of servants.

79. The holder of a licence, permit, pass or authorization granted under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting with his express or implied permission on his behalf under the provisions of this Act as if he himself had committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

Import, export, etc. of intoxicant by any person on account of another.

80. (*1*) Whenever any intoxicant, hemp, mhowra flowers or molasses are manufactured, imported, exported, transported, sold or are possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture, import, export, transport, sale or possession is, on his account, the intoxicant, hemp, mhowra flowers or molasses, as the case may be, shall for the purposes of this Act, be deemed to have been manufactured, imported, exported, transported or sold by or to be in the possession of, such other person.

(*2*) Nothing in sub-section (*1*) shall absolve any person from liability to any punishment under this Act for the unlawful manufacture, import, export, transport, sale or possession of such articles.

Penalty for attempts or abetment.

81. Whoever attempts to commit or abets the commission of an offence under this Act shall, on conviction, be punished for such attempt or abetment with the same punishment as is provided for the principal offence.

Breach of licence, permit, etc., to be an offence.

82. (*1*) In the event of any breach by the holder of any licence, permit, pass or authorization granted under this Act or by his servants or by any person acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence, permit, pass or authorization, such holder shall, in addition to the cancellation or suspension of the licence, permit, pass or authorization granted to him, be punished, on conviction with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, unless it is proved that all due and reasonable precautions were exercised by him to prevent any such breach.

(2) Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence, permit, pass or authorization be liable to the same punishment.

Penalty for conspiracy.

83. When two or more persons agree –

(*a*) to commit or cause to be committed any offence under this Act, or

(*b*) to defeat or frustrate the provisions of this Act, rule, regulation or order, or to commit a breach of a condition of a licence, permit, pass or authorization,

each of such persons shall, on conviction, be punished with imprisonment for a period which may extend to two years or with fine which extend to one thousand rupees or with both.

Penalty for being found drunk in any drinking house.

84. Whoever is found drunk or drinking in a common drinking-house, or is found there present for the purpose of drinking, shall, on conviction be punished with fine which may extend to five hundred rupees. Any person found in a common drinking house during any drinking therein shall be presumed, until the contrary is proved, to have been there for the purpose of drinking.

Penalty for being drunk and for disorderly behaviour.

85. Whoever in any street or thoroughfare or public place or in any place to which the public have or are permitted to have access—

(*1*) is drunk and incapable of taking care of himself, or

(*2*) behaves in a disorderly manner under the influence of drink,

shall, on conviction, be punished,—

(*i*) for an offence under clause (*1*),—

(*a*) for a first offence, with imprisonment for a term which may extend to one month and with fine which may extend to two hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than seven days and fine shall not be less than twenty-five rupees and

(*b*) for a subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees ; and

(*ii*) for an offence, under clause (*2*),—

(*a*) for a first offence, with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees : and

(*b*) for a subsequent offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees.

Penalty for allowing any premises to be used for purpose of committing an offence under Act.

86. (*1*) Whoever, being the owner or occupier, or having the use or care or management or control of any place, knowingly permits it to be used for the purpose of the commission by any other person of any offence punishable under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

(*2*) It shall be presumed until the contrary is proved, that a person accused of an offence under sub-section (*1*) has committed such offence if the offence committed by that other person is proved to have been committed in the premises in his immediate possession.

Penalty chemist, druggist or apothecary] for allowing his premises to be used for purpose of consumption of liquor.

87. A chemist, druggist, apothecary or keeper of a dispensary who allows any liquor, which has not been *bona fide* medicated for medicinal purposes according to the prescription of a medical practitioner or any intoxicating drug to be consumed on his business premises by any person, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for issuing false prescriptions.

88. If a medical practitioner issues a prescription with the intention that such prescription shall be used by the person to whom it is issued for the purpose of consuming liquor, intoxicating drug or opium in contravention of the provisions of this Act, or rule, regulation or order made thereunder or any licence, permit, pass or authorization granted under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Penalty for maliciously giving false information.

89. Any person who maliciously and falsely gives information to any person exercising powers under this Act leading to a search, seizure, detention or arrest shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for offences not otherwise provided for.

90. Whoever is guilty of any wilful act or intentional ommission in contravention of the provisions of this Act, or any rule, regulation, or order thereunder or of any licence, permit, pass or authorization granted under this Act, and if such act or omission is not otherwise made an offence under this Act shall, on conviction, be punished with the imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Demand for security for abstaining from commission of certain offences.

91. (*1*) Whenever any person is convicted of an offence punishable under this Act, the court convicting such person, may, at the time of passing the sentence on such person, order him to execute a bond for a sum proportionate to his means with or without sureties to abstain from the commission of offences punishable under the provisions of this Act during such period not exceeding three years as it may direct.

V of 1898.

(*2*) The bond shall be in such form as may be provided under the provisions of the Code of Criminal Procedure, 1898, and the provisions of the said Code shall in so far as they are applicable apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

(*3*) If the conviction is set aside in appeal the bond so executed shall become void.

Release of offenders on bond.

92. Whenever any person is convicted of an offence of consuming an intoxicant under this Act, the court convicting him may, instead of sentencing him at once to any punishment, direct him to be released on his executing a bond with or without

sureties to appear and receive sentence when called upon during such period not exceeding three years as the court may direct, and in the meantime to keep the peace and be of good behaviour.

Demand of security for good behaviour.

93. (*1*) Whenever a Presidency Magistrate in the Greater Bombay and elsewhere a Magistrate of the first class receive information that any person within the local limits of his jurisdiction habitually commits or attempts to commit, or abets the commission of, an offence punishable under this Act, such magistrate may require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the magistrate may direct.

(*2*) The provisions of the Code of Criminal Procedure, 1898, shall in so far as they are applicable apply to any proceedings under sub-section (*1*) as if the bond referred to therein were a bond required to be executed under section 110 of the said Code. V of 1898.

Execution of bonds in respect of minors.

94. If any person in respect of whom a bond is ordered to be executed under the last three preceding sections is a minor, the bond shall be executed by his guardian.

Punishment for vexatious search, seizure or arrest.

95. Any officer or person exercising powers under this Act who—

(*a*) maliciously enters or searches or causes to be entered or searched, any building or house or similar dwelling place ; or

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act ; or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person ; or

(*d*) in any other way maliciously exceeds or abuses his lawful powers,

shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Punishment for vexatious delay

96. Any officer or person who vexatiously and unnecessarily delays forwarding to the officer in charge of the nearest police station any person arrested or article seized under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Punishment for abetment for escape of persons arrested.

97. Any officer or person exercising powers under this Act, who—

(*a*) unlawfully releases any person arrested under this Act, or

(*b*) abets the escape of any person arrested under this Act, or

(*c*) abets the commission of any offence against this Act, and

any other officer of the Crown or of a local authority who abets the commission of any offence against this Act,

shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Things liable to confiscation.

98. (*1*) Whenever any offence punishable under this Act has been committed,

(*a*) any intoxicant, hemp, mhowra flowers, molasses, materials, still, utensil, implement or apparatus in respect of which the offence has been committed,

(*b*) where in the case of an offence involving illegal possession, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses

other than those in respect of which an offence under this Act has been committed, the entire stock of such intoxicant, hemp, mhowra flowers or molasses,

(*c*) where, in the case of an offence of illegal import, export or transport, the offender has attempted to import, export or transport any intoxicant, hemp, mhowra flowers or molasses, in contravention of the provisions of this Act, rule, regulation or order or in breach of a condition of a licence, permit, pass, or authorization, the whole quantity of such intoxicant, hemp, mhowra flowers or molasses which he has attempted to import, export or transport,

(*d*) where in the case of an offence of illegal sale, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses, other than that in respect of which an offence has been committed, the whole of such other intoxicant, hemp, mhowra flowers or molasses,

shall be confiscated by the order of the court.

(*2*) Any receptacle, package or covering in which any of the articles liable to confiscation under sub-section (*1*) is found and the other contents of such receptacle, package or covering and the animals, carts, vessels or other conveyances used in carrying any such article shall like-wise be liable to confiscation by the order of the Court.

Return of things liable to confiscation to *bona fide* owners.

99. When during the trial of a case for an offence under this Act the court, decides that anything is liable to confiscation under the foregoing section, the court may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation, or in the case of any article other than an intoxicant, hemp, mhowra flowers or molasses give the owner an option to pay fine as the court deems fit in lieu of confiscation :

Provided that no animal, cart, vessel, vehicle or other conveyance shall be confiscated if the owner thereof satisfies the court that he had exercised due care in preventing the commission of the offence.

Procedure in confiscation.

100. When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act is found or seized, the Commissioner, Collector or any other officer authorized by the Provincial Government in this behalf may make an inquiry and if after such inquiry is satisfied that an offence has been committed, may order the thing found to be consfiscated :

Provided that no such order shall be made before the expiry of one month from the date of seizure, or without hearing any person who can claim any right thereto and the evidence, if any, which he produces in support of his claim.

Power of Collector, etc., to order sale or destruction of articles liable to confiscation.

101. If the thing in question is liable to speedy and natural decay, or if the Commissioner, Collector, Magistrate or the officer authorized by the Provincial Government in this behalf is of opinion that the sale would be for the benefit of the owner, the Commissioner, Collector, Magistrate or the officer may at any time direct it to be sold and the provisions of section 99 or 100 shall apply so far as may be to the net proceeds of the sale :

Provided that in the case of anything liable to speedy and natural decay, the officer concerned may order it to be destroyed if in his opinion such order is expedient in the circumstances of the case.

Forfeiture of any publication containing advertisement or matter commending use of intoxicants.

102. (*1*) Where any newspaper, newssheet, book, leaflet, booklet or other publication wherever printed or published appears to the Provincial Government to contain any advertisement or matter commending, soliciting the use of, or offering any intoxicant or hemp, the Provincial Government may, by notification in the *Official Gazette*, declare every copy of such newspaper, newssheet, book, leaflet, booklet or other publication whether printed or published in the Province or outside to be forfeited to His Majesty, and thereupon any Police Officer may seize the same wherever found in the Province. Any Magistrate may by warrant authorize any Police Officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such newspaper, newssheet, book, leaflet, booklet, or other publication may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898. V of 1898.

(*2*) The declaration of the Provincial Government under this section shall be final and shall not be questioned in any Civil or Criminal Court.

Presumption as to commission of offences in certain cases.

103. (*1*) In prosecutions under any of the provisions of this Act, it shall be presumed, without further evidence, until the contrary is proved, that the accused person has committed an offence under this Act in respect of any intoxicant, hemp, mhowra flowers or molasses or any still, utensil, implement or apparatus, whatsoever, for the manufacture of any intoxicant as are ordinarily used in the manufacture of such intoxicant, for the possession of which he is unable to account satisfactorily.

(*2*) In prosecutions under section 67 it shall be presumed without further evidence until the contrary is proved that the accused person has committed an offence under that section in respect of any denatured spirit which has been or attempted to be altered in contravention of the provisions of section 21.

Compounding of offences.

104. (*1*) The Provincial Government may sanction the acceptance from any person whose licence, permit, pass or authorization is liable to be cancelled or suspended under the provisions of this Act or who is reasonably suspected of having committed an offence under section 108, of a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be ; and in all cases in which any property other than the intoxicant, hemp, mhowra flowers or molasses has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by the Provincial Government or such officer as the Provincial Government may authorize in this behalf :

Provided that where a person who is reasonably suspected of having committed an offence under section 108 is not the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or a person acting with his express or implied prmission on his behalf, the sum of money which may be accepted from such person by way of composition shall not exceed five hundred rupees.

(*2*) On the payment by such person of such sum of money, or such value or both, as the case may be, such person, if in custody, shall be set at liberty and the property seized may be released and if any proceedings shall have been instituted against such person in any Criminal Court, the emposi tion shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

CHAPTER VIII.

Excise Duties.

105. An excise duty or countervailing duty, as the case may be, at such rate or rates as the Provincial Government shall direct may be imposed either generally or for any specified local area on— Excise duties.

(*a*) any alcoholic liquor for human consumption,
(*b*) any intoxicating drug,
(*c*) any medicinal or toilet preparation containing alcohol,
(*d*) any other excisable article,

when imported, exported, transported, possessed, manufactured or sold in accordance with the provisions contained in Chapter IV of this Act :

XXXII of 1934. VIII of 1878. Provided that duty shall not be so imposed on any article which has been imported into the Dominion of India and was liable on such importation to duty under the Indian Tariff Act, 1934, or the Sea Customs Act, 1878.

Explanation.—Duty may be imposed under this section at different rates according to the places to which an excisable article is to be removed for consumption or according to varying strengths or quality of such article.

106. Subject to any regulations to regulate the time, place and manner of payment made by the Commissioner in this behalf, the duties referred to in section 105 may be levied in one or more of the following ways :— Manner of levying excise duties.

(*a*) in the case of an excisable article imported—

(*i*) by payment either in the Province at the time of its import or in the Province or territory of export at the time of its export, or

(*ii*) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(*b*) in the case of an excisable article exported by payment in the Province at the time of its export, or in the Province or territory of import ;

(*c*) in the case of excisable articles transported—

(*i*) by payment in the district from which they are transported, or

(*ii*) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(*d*) in the case of spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Act—

(*i*) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued from a warehouse established or licensed under this Act, or

(*ii*) by a rate charged in accordance with such sale of equivalents calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the Provincial Government may prescribe ;

(*e*) in the case of intoxicating drugs manufactured in pursuance of a licence granted under this Act, by payment upon the quantity produced or manufactured or issued from a warehouse established or licensed under this Act :

Provided that where payment is made upon issue for sale from a warehouse established or licensed under this Act, such payment shall be at the rate of the duty in force at the date of issue from the warehouse ;

Provided further that where one and the same person is permitted—

(*i*) to manufacture or import and to sell, or

(*ii*) to manufacture and export,

country liquor or any intoxicant, such duty may be levied in consideration of the joint privileges granted, as the Collector deems fit.

Power to exempt, remit or refund excise duty.

107. Subject to any rules or orders made by the Provincial Government in this behalf, the Commissioner may remit or refund wholly or partially excise duty and fee leviable under this Act on any intoxicant or hemp from any person, or institution, or a class of persons or institutions or exempt such person or institution from the payment of such duty or fee.

Penalty for import, of intoxicant, etc. without payment of duty.

108. Whoever imports, exports, transports, possesses or manufactures any intoxicant or hemp without the payment of duty or fee provided for under this Act shall, on conviction, be liable to the same punishment prescribed in respect of such intoxicant or hemp in regard to its import, export, transport, possession or manufacture in contravention of the provisions of this Act.

Duty on tapping of toddy trees.

109. (*1*) For every toddy producing tree from which toddy is drawn there shall, if the Provincial Government so directs, be levied for any period during which such tree is tapped or licensed to be tapped, such duty as the Provincial Government may from time to time direct.

(*2*) Every licence for drawing toddy granted under this Act shall specify in addition to any other particulars prescribed under the provisions of this Act or rules or regulations—

(*a*) the number, description and situation of the trees to be tapped,

(*b*) the amount of duty to be levied in respect of each tree,

(*c*) the instalments, if any in which and the period at which the said duty shall be leviable.

Duty by whom payable.

110. The duty on toddy producing trees shall be leviable primarily from the person holding the licence to draw toddy and in default by him or if the trees are tapped without licence, from the owner of the trees.

Owner of trees entitled to assistance for duty paid.

111. When the duty on toddy producing trees is levied from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the licence under the provisions of the law for the time being in force relating to the recovery by superior holders of their dues from thier tenants.

Privilege of drawing toddy from trees belonging to Government.

112. The privilege of drawing toddy from trees the right to which vests in the Provincial Government may be disposed of annually by auction or otherwise on such terms as the Collector deems fit.

Rules for levy of duty on opium, etc.

113. (*1*) The Provincial Government may make rules for all or any of the following matters,—

(*a*) the levy of duty on the import of opium,

(*b*) the sale of opium and the farm of duties leviable on the sale of opium by retail,

(*c*) the levy of fees for the warehousing of opium imported :

Provided that no duty shall be levied under any such rule on any opium imported and on which a duty is imposed by or under the law relating to sea or land customs for the time being in force or under the Dangerous Drugs Act, 1930.

(2) The Provincial Government may also make rules for the disposal of any opium, if any duty or fees leviable on it be not paid within twelve months from the date of warehousing the same.

Recovery of duties, etc.

114. All duties, taxes, fines (except fines imposed by a Court) and fees leviable under any of the foregoing provisions of this Act or of any licence, permit, pass or authorization granted under it, may be recovered from any person liable to pay the same or from his surety, if any, as if they were arrears of land revenue.

CHAPTER IX.

Powers and Duties of Officers and Procedure.

Magistrate's power to impose higher fine.

115. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of an offence under section 65, 66, 68 or 69.

V of 1898.

Procedure to be followed by Magistrates.

116. In all trials for offences under this Act, the Magistrates shall follow the procedure prescribed in the Code of Criminal Procedure, 1898, for the trial of summary cases in which an appeal lies.

V of 1898.

Investigations, arrests, searches, etc., how to be made.

117. Save as otherwise expressly provided in this Act, all investigations, arrests, detentions in custody and searches shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898:

Provided that in any local area as may be specified in a notification in the *Official Gazette* by the Provincial Government, no search shall be deemed to be illegal by reason only of the fact that witnesses for the search were not inhabitants of the locality in which the place searched is situated.

Offences to be cognizable.

118. (*1*) In the absence of any provision to the contrary in this Act and save as provided in sub-section (*2*) of this section, the provision of the Code of Criminal Procedure, 1898, with respect to cognizable offences shall apply to offences under this Act.

V of 1898.

Bom. IV of 1902.

(*2*) In the Greater Bombay the provisions of the City of Bombay Police Act, 1902, with respect to cognizable offences shall apply to offences under this Act:

Provided that the powers with which an officer in charge of a Police Station or a Police Officer making an investigation are invested under section 66 of the City of Bombay Police Act, 1902, shall not be exercised in relation to the search of any house or building to which the public have no right of access except with the permission to be recorded in writing of an officer not lower in rank than an officer in-charge of a Police Station.

Bom. IV of 1902.

Offences to be non-bailable.

119. Offences under sections 65 and 68 shall be non-bailable.

Powers of entry and inspection

120. The Commissioner, Collector, or any Prohibition Officer duly empowered in this behalf by the Provincial Government or any Police Officer may—

(*a*) enter at any time by day or by night, any house or building, or enclosed space in which he has reason to believe that any intoxicant, opium, hemp, mhowra flowers or molasses liable to confiscation under this Act are manufactured, kept or concealed or that any still, utensils, implement or apparatus is used, kept or concealed for the purpose of manufacturing any such articles;

(*b*) in case of resistance, break open any door and remove any other obstacle to his entry into any such warehouse, shop, premises, house, building, or enclosed space;

(*c*) seize any intoxicant, hemp, mhowra flowers or molasses and any material used in the manufacture of any intoxicant and any still, utensil, implement or apparatus and any other thing which he has reason to believe to be liable to confiscation under this Act; and

(*d*) detain and search and if he thinks proper, arrest any person whom he has reason to believe to be guilty of any offence under this Act.

Power to open packages, etc.

121. (*1*) Any Prohibition Officer duly empowered in this behalf by the Provincial Government or any Police Officer may open any package and examine any goods and may stop or search for any intoxicant, hemp, mhowra flowers or molasses any vessel, vehicle or other means of conveyance.

(*2*) The unloading and carrying of goods, the bringing of them to the place appointed under sub-section (*3*) for examination, the opening and repacking of them, where such operations are necessary to be made under this section and the removing of goods to and placing of them in the place appointed under sub-section (*3*) for deposit, shall be performed by or at the expense of the owner of such goods.

(*3*) The owner of goods or the persons in charge of the goods shall, if so required by any officer conducting the search, take the goods to a place appointed by the District Magistrate, or Commissioner of Police, Bombay, for the purpose of examination or deposit.

(*4*) The expenses incurred under sub-section (*2*) for the purpose of removing goods to and the placing of them in the place appointed under sub-section (*3*) may be recovered as an arrear of land revenue.

Powers to require production of licences.

122. (*1*) The Commissioner or Collector or any Prohibition Officer duly empowered in this behalf or any Police Officer may—

(*a*) require a licensed manufacturer or vendor or a person in the employ of such manufacturer or vendor or acting with his express or implied permission on his behalf to produce the licence, permit, pass or authorization issued under this Act under which he carries on the manufacture, storage or sale of any intoxicant, hemp, mhowra flowers or molasses or taps toddy producing trees or draws toddy therefrom;

(*b*) enter and inspect, at any time by day or by night, any land on which toddy producing trees licensed for tapping are growing or toddy is drawn from such trees, or any warehouse, shop or premises in which any licensed manufacturer or vendor manufactures, stores or sells any intoxicant, hemp, mhowra flowers or molasses or examines, tests, measures, and weighs any stock of any such articles.

(*2*) If such officer finds that the holder of a licence, permit, pass or authorization issued under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf wilfully does or omits to do anything which is an offence under this Act, such officer may seize any intoxicant, hemp, mhowra flowers or molasses or any material in respect of which the offence is committed and send a report to his official superior for such action under this Act as he deems fit.

Arrest of offenders and seizure of contraband articles.

123. (*1*) Any Prohibition Officer authorized by the Provincial Government in this behalf or any Police Officer may—

(*a*) arrest without a warrant any person whom he has reason to believe to be guilty of an offence under this Act;

(*b*) seize and detain any intoxicant, hemp, mhowra flowers or molasses or other articles which he has reason to believe to be liable to confiscation or forfeiture under this Act.

(*2*) Any Prohibition Officer authorized by the Provincial Government under this section who arrests any person under sub-clause (*a*), or seizes and detains any article under sub-clause (*b*), of sub-section (*1*) shall forward such person or article, as the case may be, without unnecessary delay to the officer in charge of the nearest Police Station.

Power to obtain information.

124. (*1*) The Commissioner, or Collector or any Prohibition Officer specially empowered in this behalf by the Provincial Government or a Police Officer may, by order require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp, mhowra flowers or molasses as may be specified in the order.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Power to seize intoxicants, etc.

125. The Commissioner, Collector or any Prohibition Officer duly empowered in this behalf or any Police Officer may—

(*a*) seize in any open place, or in transit any intoxicant, hemp, mhowra flowers or molasses or any other thing which he has reason to believe to be liable to confiscation under this Act or any other law for the time being in force relating to excise revenue;

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this Act or any other law for the time being in force relating to excise revenue, and if such person has any intoxicant, hemp, mhowra flowers, molasses or any other thing in his possession, arrest him.

Arrest without warrant.

126. The Commissioner, Collector or any Prohibition Officer duly empowered in this behalf by the Provincial Government or any Police Officer may arrest without an order from a Magistrate and without warrant any person who obstructs him in the execution of his duties under this Act or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

Arrest of offenders failing to give names.

127. (*1*) When any person who in the presence of the Commissioner, Collector or any Prohibition Officer not below such rank as the Provincial Government may determine, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer, in order that his name or residence may be ascertained.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond with or without sureties, to appear before a Magistrate when so required:

Provided that if such person is not resident in the Dominion of India, the bond shall be secured by a surety or sureties residing in the Dominion of India.

(*3*) If the true name and residence of such person is not ascertained within twenty-four hours from the time of the arrest, or if he fails to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Issue of warrants.

128. (*1*) The Commissioner, Collector or any Prohibition Officer duly empowered in this behalf or a Magistrate or a District Superintendent of Police or an Assistant or Deputy Superintendent of Police specially empowered by the Provincial Government in this behalf may issue a warrant—

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence under this Act or any other law relating to the excise revenue for the time being in force,

(*b*) for the search, whether by day or by night, of any building, vehicle or place in which he has reason to believe that any intoxicant, hemp, opium, mhowra flowers or molasses are manufactured or sold or stored or that any toddy is drawn, contrary to the provisions of this Act or that any intoxicant, hemp, or opium or other thing liable to confiscation or forfeiture under this Act or any other law for the time being in force relating to the excise revenue is kept or concealed.

(*2*) All warrants issued under sub-section (*1*) shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by Police Officer or a Prohibition Officer duly empowered in this behalf or if the officer issuing the warrant deems fit, by any other person. V of 1898.

Prohibition Officers may be empowered to investigate offences.

129. (*1*) The Provincial Government may empower any Prohibition Officer to investigate offences under this Act.

(*2*) An officer empowered under sub-section (*1*) shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a Police Station for the investigation of cognizable offences. V of 1898.

(*3*) Any Prohibition Officer to whom such officer is subordinate may, during the course of the investigation, take over the investigation himself or direct any other Prohibition Officer duly empowered to conduct the same. The officer in conducting the investigation shall have the same powers under sub-sections (*1*) and (*2*), as if he were the Prohibition Officer appointed for the area or for the purpose of investigating the said offence.

(*4*) If the Prohibition Officer conducting the investigation is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond with or without sureties, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence, and shall make a full report of the case to his official superior and be guided by the order which he shall receive on such report.

(*5*) The powers of an officer empowered under this section shall be subject to such other modifications or restrictions as the Provincial Government may deem fit.

Arrested persons and things seized to be sent to officer-in-charge of Police Station.

130. Every person arrested and thing seized by a Prohibition Officer under this Act shall be sent to the officer-in-charge of the nearest Police Station.

Bail by Prohibition Officer.

131. (*1*) Any Prohibition Officer empowered to investigate an offence under this Act shall have power to grant bail in accordance with the provisions of the V of 1898. Code of Criminal Procedure, 1898, to any person arrested without a warrant for an offence under this Act.

(*2*) When any person has been arrested under section 126 a Prohibition Officer empowered to investigate offence under this Act shall have power to grant bail in V of 1898. accordance with the provisions of the Code of Criminal Prodcedure, 1898.

Articles seized.

132. When anything has been seized by a Prohibition Officer other than the Collector or Commission under the provisions of this Act, or has been sent to him in accordance with the provisions of this Act, such officer, after such inquiry as may be deemed necessary,—

(*a*) if it appears that such thing is required as evidence in the case of any person arrested, shall forward it to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken,

(*b*) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send it with a full report of the particulars of the seizure to the Collector,

(*c*) if no offence appears to have been committed shall return it to the person from whose possession it was taken.

Duty of officials of all Departments and local authorities to assist.

133. Every officer of the Crown and every officer or servant of a local authority shall be legally bound to assist any police officer or person authorized in this behalf in carrying out the provisions of this Act.

Offences to be reported.

134. Every village officer or servant useful to Government and every officer of any other Department of the Provincial Government and any officer or servant of a local authority shall be bound to give immediate information at the nearest Police Station or section or to any officer or person authorized in this behalf of any breach of any of the provisions of this Act which may come to their knowledge ; and all such officers and servants shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches about which they may have knowledge or which they may have reason to believe or about or likely to be committed.

Landlords and others to give information.

135. Every person who occupies any land or building or who is a landlord of an estate residing in the village on or in which there has been any tapping for toddy or manufacture of any liquor or intoxicating drug not authorized by a permit or a licence issued under this Act, and every owner of a vessel or vehicle in which liquor or intoxicating drug is manufactured without such permit or licence, shall,in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to an Officer of the Police as soon as such tapping or manufacture shall come to his knowledge.

Power to arrest and make orders detaining or restricting movements or actions of persons.

136. (*1*) If any Prohibition Officer not below the rank of the Commissioner and Collector and any Police Officer not below the rank of the Superintendent of Police in Greater Bombay or the Deputy Superintendent of Police elsewhere authorized in this behalf by the Provincial Government by general or special order is satisfied that any person is acting or is likely to act in a manner which amounts to a preparation, an attempt, an abetment or a commission of any of the offences

punishable under section 65 or 68, such officer may arrest or cause to be arrested such person without warrant and direct that such person shall be committed to such custody as such officer may deem fit for a period not exceeding fifteen days and such officer shall forthwith report the fact of such arrest to the Provincial Government.

(*2*) The Provincial Government may, if it is satisfied that any person including a person arrested under sub-section (*1*) was acting, is acting or is likely to act in the manner specified in sub-section (*1*), make an order—

(*a*) directing that he be detained ;

(*b*) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or place in the Province as may be specified in the order ;

(*c*) requiring him to reside or remain in such place or within such area in the Province as may be specified in the order and, if he is not already there, to proceed to that place or area within such time as may be specified in the order ;

(*d*) requiring him to notify his movements or to report himself or to do both in such manner, at such times and to such authority or person, as may be specified in the order ;

(*e*) imposing upon him such restrictions as may be specified in the order, in respect of his employment or business or association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinion ;

(*f*) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order.

(*3*) An order made under sub-section (*2*) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due observance of the restrictions or conditions specified in the order.

(*4*) When any person is detained under an order made under clause (*a*) of sub-section (*2*), the Provincial Government may, notwithstanding anything contained in sub-section (*2*), in lieu of such order make any such order as is described in clause (*b*), (*c*) or (*d*) of the said sub-section.

(*5*) If any person is found in any area or place in contravention of an order made under the provisions of this section, or fails to leave any area or place in accordance with the requirements of such order, he may, without prejudice to the provisions of sub-section (*8*), be removed by any police officer from such area or place.

(*6*) So long as there is in force in respect of any person an order under clause (*a*) of sub-sectin (*2*), he shall be liable to be removed to, and detained in, such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the Provincial Government may from time to time by general or special order specify.

(*7*) If the Commissioner of Police, Bombay, or the District Magistrate, or the Additional District Magistrate has reason to believe that a person in respect of whom an order has been made under clause (*a*) of sub-section (*2*) has absconded or is concealing himself or is otherwise delaying or frustrating the execution of the order, he may—

(*a*) make a report in writing of the fact to a Presidency Magistrate or a Magistrate of the first class, as the case may be, having jurisdiction in the place where the said person ordinarily resides ; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate, or

V of 1898.

(*b*) by a direction notified in the *Official Gazette*, require the said person to appear before him at such place, and within such period, as may be specified in the direction, and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply with it and that he had within the period specified in it, informed the Commissioner of Police, or the District Magistrate, or the Additional District Magistrate, as the case may be, of his whereabouts and of the reasons which rendered complian with it impossible, be punished, on conviction, with imprisonment for a term which may extend to one year, or with fine, or with both.

(*8*) If any person contravenes any order made under this section he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section(*3*) his bond shall be forfeited and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the Court why such penalty should not be paid.

(*9*) Where an order is made in respect of any person under sub-section (*1*) or sub-section (*2*), the authority making the order may, upon application by the person affected by the order, communicate to him the grounds on which the order has been made,without disclosing facts which it considers against the public interest to disclose and such particulars as are in its opinion sufficient to enable him to make a representation to the Provincial Government against the order and afford him the earliest opportunity of making such representation.

(*10*) On receipt of a representation under sub-section (*9*), the Provincial Government may either annul, amend or confirm the order or make any other order which it would have made under sub-section (*2*).

(*11*) An order made under this section shall not be called in question inany court, except on the ground that the procedure laid down in this section was not followed.

CHAPTER X.

Appeals and Revision.

137. (*1*) All orders passed by any Prohibition Officer other than the Collector or Commissioner under this Act, shall be appealable to the Collector at any time within sixty days from the date of the order complained of. Appeals.

(*2*) All orders passed by the Collector and Commissioner shall be appealable to the Commissioner and the Provincial Government respectively at any time within ninety days from the date of the order complained of :

Provided that no appeal shall lie against an order passed by the Commissioner on appeal.

(*3*) Subject to the foregoing provisions the rules which the Provincial Government may make in this behalf shall apply to appeals under this section.

138. The Provincial Government may call for and examine the record of any proceedings before any Prohibition Officer including those relating to the grant or refusal of a licence, permit, pass or authorization granted or applied for under this Act, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of, such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit. Revision.

CHAPTER XI.

MISCELLANEOUS.

General powers of Provincial Government in respect of licenses, etc.

139. Notwithstanding anything contained in this Act or the rules made there under, the Provincial Government may, by general or special order,—

(*a*) prohibit the grant of any kind of licences, permits, passes or authorizations throughout the Province or in any area ;

(*b*) regulate the import, export, transport, possession, sale, purchase, consumption, or use of any intoxicant, hemp, mhowra flowers, molasses or any article which is likely to be used for the manufacture of an intoxicant with or without licence, permit, pass or authorization throughout the Province or within the limits of any local area subject to such conditions and for such periods as it deems fit ;

(*c*) exempt any person or institution or any class of persons or institutions from the observance of all or any of the provisions of this Act, or any rule or regulation or order made thereunder ;

(*d*) exempt any intoxicant or class of intoxicants from all or any of the provisions of this Act ;

(*e*) prescribe the maximum number of licences, permits, passes or authorizations of any kind which may be granted in any area or to any class of persons ;

(*f*) prescribe the number of places at which any intoxicant specified in such order, hemp, mhowra flowers or molasses may be sold in any area, the location of such places in any area, the days and hours during which such places may or may not be kept open, the number of such places in respect of which licences for sale may be granted and the number of such places which may be managed by the Excise Department ;

(*g*) direct that no licence, permit, pass or authorization of the kind specified in such order shall be granted without the previous approval of the Provincial Government or also direct any additions or alterations to be made to or in the conditions subject to which under any other provisions of this Act, such licence, permit, pass or authorization can be granted.

(*h*) prescribe the maximum quantity of any intoxicant, hemp, mohwra flowers or molasses which may be sold in any area or at any place ;

(*i*) prescribe the maximum number of toddy producing trees for tapping which or for drawing toddy from which licence may be granted ;

(*j*) prescribe the procedure to be followed before granting any licence ;

(*k*) direct that before granting licences, auctions may be held, tenders called for or offers received and that licences shall be granted to persons whose bids, tenders or offers are accepted by the Collector ;

(*l*) specify the persons or class of persons to whom licences may not be granted and in cases in which auction are held, the person or classes of persons who may or may not be permitted to offer bids at such auctions ;

(*m*) direct that licences of the kind specified in such order shall be granted to persons specified in such order ; and

(*n*) issue such other instructions in any matter pertaining to the grant or otherwise of licences, permits, passes or authorizations under this Act, as the Provincial Government may deem proper.

140. The Provincial Government may, by general or special order, prohibit, regulate or control, subject to such conditions as may be specified in the order, the consumption or use of any intoxicant or hemp, in any public place. Power of Provincial Government to prohibit, regulate or control consumption or use of intoxicants, etc., in public place.

141. (*1*) If the Provincial Government is satisfied that the inhabitants of any area are concerned in the commission or abetment of any of the offences punishable under sections 65 to 69, the Provincial Government may, by notification in the *Official Gazette*, direct the employment of additional police for such period as it thinks fit. Employment of additional police.

(*2*) The cost of such additional police shall, if the Provincial Government so directs, be either in whole or in part defrayed by a tax imposed on the persons here in below mentioned, or by a rate assessed on the property of such persons, or both by a tax and by a rate so imposed and assessed, and charged—

(*a*) either generally on all persons who are inhabitants of the local area to which such notification applies; or

(*b*) specially on any particular section or sections or class or classes of such persons, and the Provincial Government may direct the proportions in which such tax or rate shall be charged.

Explanation.—For the purposes of this section "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents or revenue direct from rayats or occupiers in such area, notwithstanding that they do not actually reside therein.

(*3*) It shall be lawful for the Provincial Government to extend, for a term not exceeding in any case five years, the period for the payment of such tax or rate beyond the period for which such additional police are actually employed.

(*4*) The said tax shall be imposed, or the said rate shall be assessed except in a Municipal district, by the Collector at his discretion. If the local area in which any such tax is to be imposed or any such rate is to be assessed, is a municipal district the tax or rate shall be assessed by the Municipality conformably to the direction given by the Provincial Government under sub-section (*2*).

(*5*) It shall be lawful for the Provincial Government by order, to exempt any persons from liability to bear any portion of such cost.

142. (*1*) It shall be lawful for the Collector by notice in writing to the licensee to require that any place in which any intoxicant or hemp is sold by retail shall be closed at such time or for such period as he may deem necessary, if in the opinion of the Collector such closing is necessary in the interest of puclic peace. Closing of shops.

(*2*) If a riot or unlawful assembly is imminent or occurring, it shall be lawful for any Magistrate or Police Officer who is present to direct that such place shall be closed and kept closed for such period as he thinks fit.

(*3*) Any order given under this section shall be final.

143. (*1*) The Provincial Government may make rules for the purpose of carrying out the provisions of this Act or any other law for the time being in force relating to excise revenues. Power of Provincial Government to make rule.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Provincial Government may make rules,—

(*a*) regulating the delegation of any powers by the Commissioner, by Collector or by any other Prohibition Officer;

(*b*) regulating the import, export, transport, sale, purchase, consumption, use or possession of any intoxicant or hemp, mhowra flowers or molasses;

(*c*) regulating the manufacture of any intoxicant;

(*d*) regulating the cultivation and collection of hemp;

(*e*) regulating the tapping of toddy producing trees and drawing of toddy therefrom;

(*f*) regulating the grant, suspension or cancellation of licences, permits, passes or authorizations for the import, export, transport, possession, manufacture, consumption, use, or cultivation of any of the above articles mentioned in clauses (*b*) and (*e*);

(*g*) regulating the periods and localities for which the licences may be granted for the wholesale or retail vend of any of the above articles mentioned in clause (*b*);

(*h*) providing for the consulting of public opinion and prescribing the procedure to be followed and the matters to be ascertained before any licence, permit, pass or authorization for the vend, consumption or use of any of the above articles mentioned in clause (*b*) is granted to any person or in any locality;

(*i*) prohibiting and regulating the employment by the licence holder of any person or classes of persons to assist him in his business in any capacity whatsoever;

(*j*) prescribing the manner in which the juice from a cocoanut, brab, date or any kind of palm tree is to be treated for the purpose of preventing fermentation;

(*k*) prescribing the persons or classes of persons to whom any intoxicant, or hemp may or may not be sold or who may be allowed to sell, purchase or use;

(*l*) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises and the meeting and remaining of persons of bad character on such premises;

(*m*) regulating the grant of expenses to persons called on to give information in investigations in respect of offences under this Act, and of compensation to persons charged with offences punishable under this Act and acquitted;

(*n*) regulating the printing, publishing or otherwise displaying or distributing any advertisement or other matter commending, soliciting the use of, or offering any intoxicant, hemp or calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act or to commit a breach or evade the provisions of any rule or order made thereunder or the conditions of any licence, permit, pass or authorization issued thereunder;

(*o*) regulating within the Province the circulation, distribution or sale of newspaper, news-sheet, book, leaflet, booklet, or other publication whether printed or published containing any advertisement or matter which is prescribed or which commends, solicits the use of, or offers any intoxicant, or hemp to be forfeited to His Majesty;

(*p*) imposing restrictions and conditions on buyers of intoxicant including provision for compelling them to sign entries pertaining to the purchase of intoxicant by them;

(*q*) prescribing the specifications and test in respect of the purity of molasses;

(*r*) regulating the taking of samples of molasses;

(*s*) prescribing the powers, functions and duties of Prohibition Officers, Committees and Medical Boards and the fees and allowances payable to the members of the Committees and Medical Boards.

(*t*) implementing generally the policy of prohibition.

(*3*) The power to make rules under this section shall be subject to the condition of previous publication :

Provided that any such rules may be made without previous publication, if the Provincial Government considers that they should be brought into force at once.

Commissioner's powers to make regulations.

144. (*1*) The Commissioner may make regulations, not inconsistent with the provisions of this Act or rules,—

(*a*) regulating, as the case may be, the manufacture, supply or storage of any intoxicant or hemp, mhowra flowers or molasses including—

(*i*) the erection, inspection, supervision, management and control of any place for the manufacture, supply or storage of such article, and the fittings, implements and apparatus to be maintained therein ;

(*ii*) the cultivation of hemp and the collection of the spontaneous growth of such plant and the preparation of any intoxicating drug from such growth and the storage and supply of such hemp or intoxicating drug ;

(*iii*) the storage and supply of opium ;

(*iv*) the tapping of toddy producing trees and the drawing of toddy from such trees ;

(*v*) the bottling of liquor ;

(*b*) regulating the deposit of any intoxicant, hemp, opium, mhowra flowers or molasses in a warehouse and the removal of such articles from any such warehouse or from any distillery or brewery ;

(*c*) prescribing in the case of an intoxicant or opium the way in which the duty on such article shall be levied ;

(*d*) prescribing the scale of fees or the manner of fixing the fees payable in respect of any privilege, licence, permit, pass or authorization or of any storage of any intoxicant, hemp, opium, mhowra flowers or molasses ;

(*e*) regulating the time, place and manner of payment of any duty or fees ;

(*f*) prescribing the restrictions under which and the conditions on which any licence, permit, pass or authorization may be granted, including—

(*i*) the prohibition of the admixture with any intoxicant of any substance deemed to be noxious or objectionable ;

(*ii*) the fixing of the strength, price or quantity in excess of or below which any intoxicant, mhowra flowers or molasses shall not be sold or supplied, and the quantity in excess of which denatured spirit shall not be possessed and the prescription of a standard of quality for any intoxicant, mhowra flowers or molasses ;

(*iii*) the prohibition of sale of any intoxicant or hemp except for cash ;

(*iv*) the prescription of the days and hours during which any licensed premises may or may not be kept open and provisions for the closure of such premises on special occasions ;

(*v*) the prescription of the nature of the premises on which any intoxicant may be sold and the notices to be exposed at such premises ;

(*vi*) the prescription of the accounts to be maintained and the returns to be submitted by licence holders or permit holders;

(*vii*) the regulation or prohibition of the transfer of licences;

(*viii*) the writing of the names and addresses and the taking of signatures of purchasers in the register of sale of any intoxicant, hemp, opium or mhowra flowers;

(*g*) (*i*) declaring the processes by which spirits shall be denatured in particular areas, or for particular purposes,

(*ii*) for causing such spirits to be denatured through the agency or under the supervision of the servants of the Crown,

(*iii*) for ascertaining whether such spirits have been denatured;

(*h*) providing for the destruction or other disposal of any intoxicant declared to be unfit for use;

(*i*) regulating the disposal of confiscated or forfeited articles;

(*j*) prescribing the occasions on which special orders may be granted for the sale by retail of quantities of liquor or intoxicating drugs, or opium other than those which are prescribed in any notification issued under this Act and the conditions on which such sales may be made;

(*k*) prescribing the amount of security to be deposited by the holder of the licence, permit, pass or authorization for the performance of the conditions for the same;

(*l*) providing for the maintenance by the holders of licences, permits, passes or authorizations of the registers of sales, purchases, possession, consumption or use and the particulars to be entered in the register;

(*m*) regarding any other matter which the Provincial Government may, by notification in the *Official Gazette*, direct him to prescribe for the purposes of carrying out the provisions of this Act.

(*2*) The regulations made under this section shall be published in the *Official Gazette*.

Officers and persons acting under this Act to be public servants.

145. All officers and persons empowered to exercise any powers or to perform any functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Bar of Proceedings.

146. No suit or proceeding shall lie against the Crown or against any Prohibition, Police, or other officers or against any person empowered to exercise powers or to perform functions under this Act, for anything in good faith done or purporting to be done under this Act.

Provisions of this Act not to apply to import or export across customs frontier.

147. For removal of doubts it is hereby declared that nothing in this Act shall be deemed to apply to any intoxicant or other article in repect of its import or export across the customs frontiers as defined by the Dominion Government.

Repeal and amendments.

148. (*1*) The enactments specified in Schedule I are hereby repealed to the extent specified in the fourth column thereof and those specified in Schedule II

are hereby amended to the extent specified in the fourth column thereof.

(2) But nothing in this Act or any repeal or amendment made thereby shall affect or be deemed to affect—

(*i*) any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act,

(*ii*) any legal proceeding or remedy in respect of any right, title, interest obligation or liablity or anything done or suffered before the commencement of this Act and any such proceeding shall be continued and disposed of, as if this Act was not passed,

Bom. V of 1878. (*iii*) the levy of any duties under section 29-A of the Bombay Abkari Act, 1878, and the recovery of any duties or fees leviable under any other provisions of the Acts hereby repealed, and all such duties or fe es shall be levied or recovered as the case may be, as if this Act was not passed.

(3) Any appointment, notification, notice, order, rule or form, made, or issued under any of the enactments repealed by this Act shall continue to be in force and deemed to have been made, granted or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act, unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act, notwithstanding the fact that the authority competent to make or issue such notification, notice, order, rule or form is different from that authorized in the enactments repealed and notwithstanding also that such notification, notice, order, rule or form was made or issued in a different form or name.

(4) Any licence, permit, pass, authorization or permission granted or issued under any of the enactments repealed by this Act shall continue to be in force and shall be deemed to have been granted or issued under the corresponding provisions of this Act.

SCHEDULE I.

(*See* SECTION 148.)

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
1878 ...	1	The Opium Act, 1878, in its application to the Province of Bombay.	The whole.
1878 ...	V	The Bombay Abkari Act, 1878.	... All the provisions except section 29-A.
1947 ...	XXX	The Bombay Molasses Act, 1947	... The whole.

SCHEDULE II.

(*See* SECTION 148.)

Year. 1	No. 2	Short title. 3	Extent of amendments. 4	
1890 ...	IV	The Bombay District Police Act, 1890.	1. In section 46—	
			(*a*) in sub-section (*4*), for clauses (ii) and (iii), the following clauses shall be substituted, namely :— " (ii) section 65 or 68 of the Bombay Prohibition 1949. ";	Bom. XXV of 1949.
			(*b*) in sub-section (*6*) for the words and figures "under the Bombay Abkari Act, 1878 or the Opium Act, 1878, " the words and figures " under the Bombay Prohibition Act, 1949 " shall be substituted.	Bom. XXV of 1949.
			2. Section 61 AA shall be deleted.	
1902 ...	IV	The City of Bombay Police Act, 1902.	1. In section 27—	
			(*a*) in sub-section (*2*), for the words and figures " under the Bombay, Abkari Act, 1878 or the Opium Act, 1878, " the words and figures " under the Bombay Prohibition Act, 1949 " shall be substituted;	Bom. XXV of 1949.
			(*b*) in sub-section (*2-A*) for clauses (ii) and (iii), the following clause shall be substituted, namely :— " (ii) section 65 or 68 of the Bombay Prohibition Act, 1949. ".	Bom. XXV of 1949.
			2. Section 122A shall be deleted.	